

FULL COUNCIL MEETING MINUTES
January 22, 2018 - 1:30 PM
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Felton-Farmington Conference Room, DelDOT Building, Dover

PRESENT

Jamie Wolfe, Chair; Daniese McMullin-Powell, Vice-Chair; Gene Aucott, Easter Seals; Anthony Carter, JEVs Human Services; Moni Edgar, CAP-UCP; Nick Fina, Advocate; Sonya Dyer, Dover AFB; Terri/Brigitte Hancharick, EPIC; Linda Heller, HLADE; Bonnie Hitch, DART; Karen McGloughlin, DPH; Dale Matueseovich, DOE; Jim Miller, Polio/Post-Polio Support Group; Pat Maichle, DDC; Bill Payne, Caregiver; Lauren Reynolds, FCIL (Freedom Center for Independent Living); Loretta Sarro, DOL/DVR DODHH; Lloyd Schmitz, Council of the Blind/EFOC; Jim Steele, National Federation of the Blind-DE; Wendy Strauss, GACEC; Meredith Tavani, DSCYF/DPBH; Laura Waterland, CLASI/DLP; Todd Webb, DelDOT; John McNeal, Staff; Amber Rivard, Support Staff; Jo Singles, Support Staff and Zachary Cooke, Intern-SCPD.

GUESTS

Victoria Counihan, DOJ/AG
Lenaye Lawyer, MD, AmeriHealth Caritas Delaware
Tiffany Earle, AmeriHealth Caritas Delaware
Kathy Gordon, AmeriHealth Caritas Delaware
Valerie Sharpe, AmeriHealth Caritas Delaware
Donna O'Hanlon, DMMA
Bill Powell
Zachary Cooke, Intern

Interpreters: Ruth Fisher, Tevis Thompson

CALL TO ORDER

Jamie called the meeting to order at 1:34 pm. Everyone introduced themselves.

ADDITION OR DELETIONS TO THE AGENDA

- Federal Report: State Implementation of Comprehensive Client Oversight (Pat)

APPROVAL OF MINUTES

Daniese clarified under Home and Community Based Services (page 3): change:
The Philly CIL is Liberty Resources, Inc. to Liberty Resources, Inc. a center for independent living (CIL) in Philadelphia. Michelle submitted comments by email: change “**given for**” to “**spent with**” on the last page. Loretta made a revision on page 3: Loretta’s supervisor from **Office of Deaf and Hard of Hearing (DVR)** change to **Division of Vocational Rehabilitation (DVR).**

Lloyd made a motion to approve the November 20, 2017 meeting minutes as amended. Wendy seconded the motion. The November 20th meeting minutes were approved as amended.

BUSINESS

Representatives from Ameri Health (new MCO)

Kathy introduced herself and gave some background information on AmeriHealth Caritas. It started in 1983 by the Sisters of Mercy with 300 members and was called the Mercy Health Plan. They are now in 18 states and have over five million members. They are not commercial insurance and cover Medicare and Medicaid. Kathy introduced the other Ameri Health Caritas representatives attending today's meeting. Dr. Lawyer gave some background information on herself and her role as Chief Medical Officer in Long Term Services and Support Program. Caseload requirements are the same as the other MCO (Managed Care Organization). Kathy explained that the company is focused on meeting the needs of the clients. Laura asked about addressing the nurse shortage in Delaware. Kathy is working with the home health agencies to identify what type of additional education they should be giving. Tiffany provided some of her experience in health care and that she is happy to return to Delaware. Laura asked how they are approaching the transition since the transition with the last MCO did not go smoothly for some during the reevaluation of health care plans. Kathy explained that they are honoring the continuity of care, case managers are currently seeing members, identifying services they currently have and looking to see if they need additional support. Donna commented that the highest risk members have been called first and are seen immediately. Kathy stated that AmeriHealth has a rapid response team to address issues that become escalated. DMMA and AmeriHealth have been in constant contact. Terri commented about her positive experience with contacts at AmeriHealth. Pat asked if case managers were all nurses. It was explained that case managers are RNs, Licensed Clinical Social Workers, and Bachelor level Social Workers. Jamie said that she was happy to hear about the continuity of services. She asked about the number of doctors signed up that are in Kent and Sussex Counties. Kathy explained that the network is currently building and the provider network team is continually working on this. She expects the network to be robust, but to contact her if someone is missing. Donna added that some providers are going through the credentialing process and have not yet signed their contracts. Jamie thanked all the representatives from AmeriHealth for attending.

Share the Care/Nurse Delegation Legislation

Jamie spoke about a meeting held with Sheila Grant (Advocacy Director for AARP) about draft Share the Care/Nurse Delegation legislation, which was also attended by Pat and Daniese. Jamie spoke about legislation passed 14 years ago stated that only a nurse could change a suprapubic catheter, a J tube, a G tube and injections. Home health agencies have stated that this is against their liability policy. This legislation would allow a home health aide or someone of the person's choosing to administer medication. Jamie commented that she plans to stay involved. Jamie noted that currently home health agencies cannot do many of the personal care activities that are needed. Daniese commented that this legislation expands the Nurse Delegation to Licensed Practical Nurses (LPN) or Certified Nursing Assistants (CNAs), but does not mention Personal Care Attendants or other people that work in the home. Daniese stated that similar legislation was passed 14 years ago regarding a self-directed program and home health agencies have policies that do not allow for this. Most people do not have LPNs or CNAs. We would like this to be expanded to any paid attendant as instructed on a one-on-one basis. Daniese commented that this would allow people to stay in their homes longer and would save the

expense of having a nurse come to the home. Laura commented that the Board of Nursing and lobbyists are opposed to the legislation. Jamie noted that some people do not have family that live nearby and we need to look at a broader circle. Jamie spoke about her personal experience. Pat spoke about a task force chaired and managed by AARP and one of the recommendations was this type of legislation. AARP are hearing from older children who are caregivers of their older parents. Pat added that our community needs to make sure that our community's voice is heard. Pat noted that this legislation is a first draft and does not have a number assigned to it. Bill spoke about many retirees having moved to Delaware and their families are not nearby. He said that families have to hire attendants for personal care and nurses to administer medication. He added that a lot of money could be saved through nurse delegation. Pat commented that shortage of nurses and higher cost of getting nurses were issues that came out of the task force. Bill will contact Sheila about attending future meetings. Karen asked if the home health agencies are willing to assume the additional risk/liability. Jamie commented that provider agencies are currently saying that they oppose the legislation. Laura added that there are many settings where medication assistance is provided, for example, day care workers have done this for many years.

Jamie explained that she thinks it will be addressed step-by-step: first-administration of medication; second-each activity that CNAs or home health aide cannot do will be eventually added to the legislation. Daniese noted that the legislation we already have wouldn't work with people unable to self direct because it is "self directed" this new legislation would work since a nurse would be delegating the task for that person. (also, right now OTC meds can't be administered either). Jamie noted that prescriptions on the bottle are clearly written and anyone who can read could follow the directions.

John suggested that we invite Sheila Grant to the next SCPD meeting to discuss the draft legislation. Jamie made a motion that John invite Sheila Grant to attend the next SCPD meeting to discuss the draft legislation and hear our input. Pat seconded the motion and motion was carried with no one abstaining or opposing.

Bill made a motion to direct John to set up meetings with legislators (sponsors) and report back to the Council. Pat seconded the motion and motion was carried with no one abstaining or opposing. Bill spoke about a motion that John let the legislators know that the Council supports this type of legislation. Pat clarified that John present a position statement of behalf of the Council in these discussions with legislators. John stated that he would write a position statement saying the Council is not opposed to the legislation, but would like a lot more information. John will set up a time to meet with legislators who attend the meeting with Sheila Grant and will inform Jamie, Daniese, Bill and Pat so they can also attend. Jim Miller commented that once we understand where the draft is and what it's all about, we can then make a decision on where we are going. Victoria commented that the Policy & Law Committee has been delegated the role of directing and advocating for the Council. Jamie commented that since so many people at this meeting are affected by this legislation that it would be a better idea for Sheila to attend an SCPD meeting. A position statement will be formulated after the meeting with Sheila Grant. John will have preliminary discussions with legislators. Pat noted that the intended audience is for over 60 people (handout) and add to it what the disability community needs in addition or alongside. She added that will go a long way in completing that task quickly. Sponsors who attended the meeting were Senator Bryan Townsend, Representative Paul Baumbach and Representative David Bentz.

Reports of Committees/Commission/Working Groups

- **Employment First Oversight Commission** – Lloyd reported that they are still working on the Annual Report and increasing membership. He asked for recommendations for an individual with a disability or group or organization that would value employment for persons with disabilities. He added that if the recommendation is a larger employer, we will need their company's HR contact information. A legislative change was proposed to add several new members. Also we want to make a change to the requirement so a State employee with a disability can participate on the Commission. If there is a quorum at the next meeting, we can move this forward. Moni will contact Lloyd after the meeting.
- **Executive Committee** – Jamie reported that the Executive Committee just met prior to this meeting. There was discussion about three topics: Brian's vacancy on the Executive Committee; SCPD member involvement in testifying at JFC and meeting with legislators to educate them on legislation. John commented that he will get information distributed on hot topics. He will send out a letter with attachments what members may have interest in participating and advocating in activities besides legislation. A survey will be developed and distributed.
- **Brain Injury Committee** – John spoke about a more structured and responsive Brain Injury Trust Fund Subcommittee. John added that the Brain Injury Trust Fund has been allocated \$50,000 per year by the Legislature for providing services that are not covered by insurance, for example, home modifications and technology. It is a payor of last resort. People who apply for these funds must document that they have a brain injury, but not necessarily a traumatic brain injury. Karen spoke about a show about concussions where they showed a visual where every time there is an impact (not necessarily at a concussion level). Over time these minor impacts add up causing trauma to the brain and the results is the same as having a severe concussion impact. There is a Brain Injury Conference sponsored by the Brain Injury Association of Delaware on March 15, 2018. The theme this year is Resources & Innovations. John spoke about discussions regarding DHIN (Delaware Health Information Network) at the Brain Injury Committee meeting. Lack of data regarding brain injuries has been a problem in Delaware in knowing where we are and how to move forward. DHIN may have data, but it is complicated and there is cost involved. The Committee is working with DHIN on this. Terri asked if cerebral palsy is considered a brain injury. John will check on this and bring it up at the next BIC meeting and check with our representative from A.I. duPont Hospital.
- **Policy & Law Committee** – Laura stated that several regulations were discussed. The following House Bills were discussed: H.B. 285, 286, 287 and 292, and 302. She briefly reviewed them:
 - **H.B. 285** – This bill makes significant changes to the provision in Chapter 11 related to prohibitions on possession and purchase of firearms or other deadly weapons for individuals with mental illness.
 - **H.B. 286** – This bill addresses the Department of Education's for Every Student Succeeds Act amending the Individuals with Disability Education Act ("IDEA") by mandating that special education teachers must have obtained full certification and may not be working under emergency certifications. Lloyd asked about the three-year requirement and if that is a deadline that is not to be extended. Lloyd commented that he had concern about teachers under DHSS/DVI and that they do not fall under DOE or District. Their employment contract gave these teachers two years to become certified. They did not get the curriculum

that would allow them to get this certification within two years. Now they are allowed up to three years in order to receive certification. He would like to ensure that it does not extend beyond the three years from the date of hire. Wendy commented that as a Council, we could ask them to work with us as they develop the regulations. Comment was made that there is not a lot of programming available that teachers can receive in order to be certified. Wendy added that DOE and DVI has been working with some of the higher education communities to see if we can get some teacher certification in specialty areas.

- H.B. 287 - This legislation replaces the term “Certificate of Performance” with “State of Delaware High School Diploma of Modified Performance Standards.” This legislation allows the opportunity for schools to award students who meet the requirements of their Individualized Education Plans (“IEP”) a high school diploma which recognizes the accomplishment of having attained a level of performance that is modified from the State graduation requirements but aligned with their established goals and performance outcomes.
- H.B. 292 – This legislation implements the recommendations of the March 2015 Autism Educational Task Force report. The intent is to invigorate the State’s Autism Program and also decentralize it.
- H.B. 302 – This bill is designed to create procedures in Delaware for making sure firearms are not in the hands of dangerous individuals while protecting due process and not creating a barrier to care for those suffering from mental illness.

Laura provided an overview and observations and recommendations on the following January Regulations that were discussed at the meeting:

- DSS Proposed Child Care Eligibility Regulation (21 DE Reg. 542)
 - Repeal of 18 DE. Admin. Code 906 regarding Department of Insurance Use of Credit Information (21 DE Reg. 546) DNREC Amendment to 7 DE Admin. Code 1363 Boiler Inspections (21 DE Reg. 554)
 - DMMA Final Special Needs Trust Regulation (21 DE Reg. 566)
 - DMMA Final Medicaid Managed Care Regulation (21 DE Reg. 568)
 - DMMA Final Regulation on Excluded Income (21 DE Reg. 572)
 - DDDS Final Lifespan Waiver Regulation, (21 DE Reg. 574)
 - DSS Final Regulation on Child Care Redeterminations (21 DE Reg. 576)
- Housing Committee – Daniese spoke about the Housing Committee reconvening after a long hiatus. Representatives from Delaware State Housing and New Castle County have attended meetings. A local HUD representative has occasionally attended and provided updates on housing for people with disabilities, which is a barrier for those that live in the community due to unavailability of housing. We hope to have a summit soon to reevaluate where we are and what we need from the entire housing community. We would like to see an increase in membership from persons with disabilities. The next meeting is March 13 and we hope to find a better location. DHSS is represented at these meetings. Daniese stated that the mission is integrated housing in the community. The Housing Committee is also under the Governor’s Commission on Community-Based Alternatives and their mission is to support Olmstead.
 - Deaf & Hard of Hearing Work Group – Loretta commented that this work group will be meeting tomorrow. They are working on a Mission Statement.

- Home & Community-Based Work Group – Jamie stated that Bob Bird of Delaware Association of Home & Community Care (DAHCC) attended the last meeting. A question was asked how they receive feedback from consumers, especially from people with disabilities. He stated that they have focus groups every ten years. Bob provided an overview of the DAHCC. They include 40 home health agencies across the state. Bob will be invited to the next meeting on Share the Care/Nurse Delegation legislation.

Federal Report: State Implementation of Comprehensive Client Oversight

Pat spoke about a recent Joint Report that came out from the U.S. Department of Health & Human Services and the Office of Inspector General, Administration for Community Living, and Office for Civil Rights on Ensuring Beneficiary Health and Safety Group Homes Through State Implementation of Comprehensive Compliance Oversight. The link to access the Report is: https://www.hhs.gov/sites/default/files/report_joint_report_hcbs.pdf. The main point made was that ninety-nine percent (99%) of incidences in group homes are not reported to the police as they should have been. She reviewed some of the findings listed in the Report. She commented that they are looking for people to become involved in protocol developments and ensuring that we advocate for these incidences to be reported at the State level so that people will be more safe and healthy within these types of living environments. Pat encouraged everyone to read the Report and commit to being involved. She noted that this has been discussed for decades. Pat explained that there are two parallel systems—a police reporting system and a health reporting system. This has been a problem here in Delaware and nationally.

Todd asked who provides oversight for the group homes. Pat explained that the State does. DDDS (Division of Developmental Disabilities Services) for those with intellectual and other disabilities. The Division of Long Term Residents Protection Program (DLTRPP) licenses the homes and reports eventually go to them. DSAMH (Division of Substance Abuse & Mental Health) provides some oversight for their group homes. Todd asked if there are regularly scheduled visits. Pat commented that they are supposed to have regularly scheduled visits. Pat explained that there is a form, and where it goes is determined by the system. There is a Home & Community Care Ombudsman and Long Term Care Ombudsman.

Other Business

none

ANNOUNCEMENTS

Laura announced that the Federal Senate Resolution just passed regarding the Federal budget.

John spoke about a recent meeting with Jamie and Daniese. One of the topics discussed was having a retreat. He added that Rita Landgraf has agreed to facilitate this retreat. This can be discussed more at the next meeting. Terri commented that was a great idea.

PUBLIC COMMENT

None

ADJOURNMENT

Bill made a motion to adjourn. Daniese seconded the motion and the motion was approved. The meeting was adjourned at 3:11 pm.

Respectfully submitted,

Jo Singles
Administrative Specialist

SCPD/min/jan18